

110TH CONGRESS  
2D SESSION

# H. R. 5755

To establish the Bipartisan Earmark Reform Commission.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2008

Mr. KIND (for himself, Mr. RAMSTAD, Mr. COOPER, Mr. GILCHREST, Ms. BEAN, Mr. UDALL of Colorado, and Mr. WALZ of Minnesota) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Bipartisan Earmark Reform Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Bipartisan Earmark  
5       Reform Commission Act of 2008”.

6       **SEC. 2. ESTABLISHMENT.**

7       There is established a commission to be known as the  
8       “Bipartisan Earmark Reform Commission” (hereinafter  
9       in this Act referred to as the “Commission”).

1 **SEC. 3. DUTIES OF COMMISSION.**

2 The duties of the Commission shall be to—

3 (1) develop a clear definition of what con-  
4 stitutes an earmark;

5 (2) consider all policy implications of earmarks,  
6 including—

7 (A) the general history and trends in legis-  
8 lative earmarks, including changes in the num-  
9 bers and sizes of earmarks;

10 (B) the policy effects of these earmark  
11 trends;

12 (C) the extent to which for-profit compa-  
13 nies receive legislative earmarks;

14 (D) whether there are disparities between  
15 the Members, districts, States, or regions re-  
16 ceiving legislative earmarks;

17 (E) the impacts of legislative earmarks on  
18 the overall budget and whether there are any  
19 effects on specific departments, agencies, initia-  
20 tives, or issue areas;

21 (F) whether a merit-based or competitive  
22 application process similar to what is used in  
23 grant funding could be adapted for use in legis-  
24 lative earmarks;

1 (G) whether the current system of disclo-  
2 sure for legislative earmarks is sufficient for  
3 purposes of public transparency;

4 (H) the extent to which the executive  
5 branch engages in earmarking, analyzed by  
6 number and size of earmarks;

7 (I) whether there are any disparities be-  
8 tween the Members, districts, States, or regions  
9 receiving executive earmarks; and

10 (J) the extent to which earmarked projects  
11 are named after current or retired members of  
12 Congress (or family members thereof) or execu-  
13 tive branch officials (or family members there-  
14 of).

15 **SEC. 4. MEMBERSHIP.**

16 (a) NUMBER AND APPOINTMENT.—The Commission  
17 shall be composed of 12 members appointed as follows:

18 (1) Three members appointed by the Speaker.

19 (2) Two members appointed by the House mi-  
20 nority leader.

21 (3) Three members appointed by Senate major-  
22 ity leader.

23 (4) Two members appointed by Senate minority  
24 leader.

25 (5) Two members appointed by the President.

1 (b) POLITICAL AFFILIATION.—Of the members ap-  
2 pointed by each appointing authority described in sub-  
3 section (a) who is a Member of Congress, one appointed  
4 by each such Member shall be a Member of Congress.

5 (c) CHAIR AND CO-CHAIR.—The President shall des-  
6 ignate a chairperson and a co-chairperson of the Commis-  
7 sion from the members appointed under subsection (a),  
8 one of whom shall be a Republican and one of whom shall  
9 be a Democrat.

10 (d) CONTINUATION OF MEMBERSHIP.—If a member  
11 was appointed to the Commission as a Member of Con-  
12 gress and the member ceases to be a Member of Congress,  
13 that member shall cease to be a member of the Commis-  
14 sion.

15 (e) MEETINGS.—The Commission shall meet upon  
16 the call of the chairperson or a majority of its members.

17 (f) QUORUM.—Seven members of the Commission  
18 shall constitute a quorum, but a lesser number may hold  
19 hearings.

20 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION.**

21 (a) DIRECTOR.—

22 (1) IN GENERAL.—Subject to subsection (c)  
23 and to the extent provided in advance in appropria-  
24 tion Acts, the Commission shall appoint and fix the  
25 pay of a director.

1           (2) DUTIES.—The director of the Commission  
2       shall be responsible for the administration and co-  
3       ordination of the duties of the Commission and shall  
4       perform other such duties as the Commission may  
5       direct.

6       (b) STAFF.—In accordance with rules agreed upon  
7       by the Commission, subject to subsection (c), and to the  
8       extent provided in advance in appropriation Acts, the di-  
9       rector may appoint and fix the pay of additional personnel.

10       (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
11       LAWS.—The director and staff of the Commission may be  
12       appointed without regard to the provisions of title 5,  
13       United States Code, governing appointments in the com-  
14       petitive service, and may be paid without regard to the  
15       provisions of chapter 51 and subchapter III of chapter 53  
16       of that title relating to classification and General Schedule  
17       pay rates, except that pay fixed under subsection (a) may  
18       not exceed \$150,000 per year and pay fixed under sub-  
19       section (b) may not exceed a rate equal to the daily equiva-  
20       lent of the annual rate of basic pay for level V of the Exec-  
21       utive Schedule under section 5316 of title 5, United States  
22       Code.

23       (d) DETAILEE.—Any Federal Government employee  
24       may be detailed to the Commission without reimbursement  
25       from the Commission, and such detailee shall retain the

1 rights, status, and privileges of their regular employment  
2 without interruption.

3 (e) EXPERTS AND CONSULTANTS.—In accordance  
4 with rules agreed upon by the Commission and to the ex-  
5 tent provided in advance in appropriation Acts, the direc-  
6 tor may procure the services of experts and consultants  
7 under section 3109(b) of title 5, United States Code, but  
8 at rates not to exceed the daily equivalent of the annual  
9 rate of basic pay for level V of the Executive Schedule  
10 under section 5316 of title 5, United States Code.

11 **SEC. 6. POWERS OF COMMISSION.**

12 (a) HEARINGS AND EVIDENCE.—The Commission  
13 may, for the purpose of carrying out this Act, hold such  
14 hearings in addition to the town hall style public hearings,  
15 sit and act at such times and places, take such testimony,  
16 and receive such evidence as the Commission considers ap-  
17 propriate. The Commission may administer oaths or affir-  
18 mations to witnesses appearing before it.

19 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
20 ber or agent of the Commission may, if authorized by the  
21 Commission, take any action which the Commission is au-  
22 thorized to take under this section.

23 (c) MAILS.—The Commission may use the United  
24 States mails in the same manner and under the same con-

1 ditions as other departments and agencies of the United  
2 States.

3 (d) ADMINISTRATIVE SUPPORT SERVICES.—Upon  
4 the request of the Commission, the Administrator of Gen-  
5 eral Services shall provide to the Commission, on a reim-  
6 bursable basis, the administrative support services nec-  
7 essary for the Commission to carry out its responsibilities  
8 under this Act.

9 (e) CONTRACT AUTHORITY.—To the extent provided  
10 in advance in appropriation Acts, the Commission may  
11 enter into contracts to enable the Commission to discharge  
12 its duties under this Act.

13 **SEC. 7. REPORTS.**

14 The Commission shall transmit a report to the Presi-  
15 dent and the Congress not later than six months after its  
16 establishment. The report shall contain a detailed state-  
17 ment of the findings and conclusions of the Commission,  
18 together with its recommendations for legislation and ad-  
19 ministrative actions to reform the legislative and executive  
20 earmark processes.

21 **SEC. 8. TERMINATION.**

22 The Commission shall terminate 30 days after sub-  
23 mitting its final report pursuant to section 7.

1 **SEC. 9. CONGRESSIONAL CONSIDERATION OF LEGISLA-**  
2 **TION RECOMMENDED BY THE COMMISSION.**

3 Not later than 60 legislative days after submission  
4 of the Commission's report to Congress pursuant to sec-  
5 tion 7, the majority leader of the House of Representatives  
6 and the majority leader of the Senate shall introduce (by  
7 request) the legislation set forth in such report.

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